

# HOUSE . . . . . No. 1445

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to updating and enhancing identity fraud protections. Consumer Protection and Professional Licensure.

## The Commonwealth of Massachusetts

### PETITION OF:

Bradley H. Jones, Jr.	Daniel K. Webster
Mary S. Rogeness	Lewis G. Evangelidis
George N. Peterson, Jr.	Karyn E. Polito
John A. Lepper	Paul K. Frost
Viriato Manuel deMacedo	Paul J.P. Loscocco
Elizabeth A. Poirier	Shirley Gomes
Donald F. Humason, Jr.	Michael J. Coppola
Susan W. Pope	Todd M. Smola
Susan Williams Gifford	Richard J. Ross
Robert S. Hargraves	Paul C. Casey

In the Year Two Thousand and Five.

AN ACT RELATIVE TO UPDATING AND ENHANCING IDENTITY FRAUD PROTECTIONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Subsection (a) of section 37E of chapter 266 of  
2 the General Laws, as appearing in the 2002 Official Edition, is  
3 hereby amended by adding the following definition:—  
4 “Entity identifying information”, if the entity is a person other  
5 than a natural person, any name, number, written document or  
6 electronic data that may be used, alone or in conjunction with any  
7 other information, to assume or exploit the identity of an entity,  
8 including but not limited to an entity’s name, address, telephone  
9 number, employer identification number, account number or elec-  
10 tronic serial number, the identifying number of the entity’s deposi-  
11 tory account, or any other information that is unique to, assigned

12 to or belongs to the entity and that is intended to be used to access  
13 services, funds or benefits of any kind that the entity owns or to  
14 which the entity is entitled.

1 SECTION 2. Said subsection (a) of said section 37E of said  
2 chapter 266 of the General Laws, as so appearing, is hereby  
3 amended by striking out the definition “Personal identifying infor-  
4 mation” in its entirety and inserting in place thereof the following  
5 definition:—

6 “Personal identifying information”, any name, number, written  
7 document or electronic data that may be used, alone or in conjunc-  
8 tion with any other information, to assume the identity of an indi-  
9 vidual, including but not limited to any name; signature;  
10 electronic identifier or screen name; electronic signature; mailing  
11 address or address of residence; savings, checking, or other finan-  
12 cial account number; telephone number; driver or professional  
13 license number; social security number; taxpayer identification  
14 number; citizenship status or alien identification number; personal  
15 identification number; employer or employee identification  
16 number or identification card; student identification number; mili-  
17 tary identification number; employment information; birth certifi-  
18 cate; birth date; credit card, charge card or debit card number;  
19 mother’s maiden name; password identification; fingerprint;  
20 retinal image; biometric identifier; DNA or other genetic informa-  
21 tion; or photograph.

1 SECTION 3. Said section 37E of said chapter 266 of the  
2 General Laws, as so appearing, is hereby amended by striking out  
3 subsection (b) in its entirety and inserting in place thereof the  
4 following subsection:—

5 (b) (1) Whoever poses as another person, whether living or  
6 deceased or, in the case of a person other than a natural person,  
7 whether organized or previously existing under the laws of the  
8 commonwealth, with the intent to defraud or harass and without  
9 the express authorization of said person, shall be guilty of iden-  
10 tity fraud and shall be punished by a fine of not more than  
11 \$25,000 or imprisonment in a house of correction for not more  
12 than five years, or by both such fine and imprisonment.

13 (2) Whoever obtains, purchases, manufactures, records, sells,  
14 transfers, transmits or otherwise uses, or possesses with the intent  
15 to use, the personal identifying information or entity identifying  
16 information of another person, whether living or deceased or, in  
17 the case of a person other than a natural person, whether orga-  
18 nized or previously existing under the laws of the commonwealth,  
19 in order to obtain or attempt to obtain money, credit, goods, serv-  
20 ices, anything of value, any identifying documents or other evi-  
21 dence of such person's identity, or to harass such person or any  
22 other person shall be guilty of identity fraud, whether or not such  
23 person actually suffers any economic loss as a result of the  
24 offense, and shall be punished by a fine of not more than \$25,000  
25 or imprisonment in a house of correction for not more than five  
26 years, or by both such fine and imprisonment.

1 SECTION 4. Said section 37E of said chapter 266 of the  
2 General Laws, as so appearing, is hereby amended by striking out  
3 subsection (c) in its entirety and inserting in place thereof the  
4 following subsection:—

5 (c) Whoever obtains, purchases, manufactures, records, sells,  
6 transfers, transmits or otherwise uses, or possesses with the intent  
7 to use, the personal identifying information or entity identifying  
8 information of another person, whether living or deceased or, in  
9 the case of a person other than a natural person, whether orga-  
10 nized or previously existing under the laws of the commonwealth,  
11 without the express authorization of such person and with the  
12 intent to pose as such person or to assist another to pose as such  
13 person in order to obtain or attempt to obtain money, credit,  
14 goods, services, anything of value, any identifying documents or  
15 other evidence of such person's identity, or to harass such person  
16 or any other person shall be guilty of identity fraud, whether or  
17 not such person actually suffers any economic loss as a result of  
18 the offense, and shall be punished by a fine of not more than  
19 \$25,000 or imprisonment in a house of correction for not more  
20 than five years, or by both such fine and imprisonment.

1 SECTION 5. Subsection (d) of said section 37E of said chapter  
2 266 of the General Laws, as so appearing, is hereby amended by  
3 inserting after the first sentence the following new sentence:— Said

4 restitution may include double or treble damages as the court in its  
5 discretion might determine.

1 SECTION 6. Said section 37E of said chapter 266 of the  
2 General Laws, as so appearing, is hereby amended by striking out  
3 subsection (e) in its entirety and inserting in place thereof the  
4 following seven subsections:—

5 (e) If any act performed in furtherance of the offenses prohib-  
6 ited by this section occurs in this state, or if any victim of the  
7 offenses prohibited by this section resides, does business or is  
8 found in this state, the offense shall be deemed to have occurred  
9 in this state.

10 (f) A person who violates any of the provisions of this section  
11 may be tried in the county:

12 (1) where the victim's personal identifying information or  
13 entity identifying information was obtained;

14 (2) where the defendant used or attempted to use the personal  
15 identifying information or entity identifying information;

16 (3) where the victim of the offense resides, does business or is  
17 found; or

18 (4) if multiple offenses of identity fraud occur in multiple juris-  
19 dictions, in any county where the victim's identity was used or  
20 obtained, or where the victim resides, does business or is found.

21 (g) Each violation of any of the provisions of this section shall  
22 constitute a separate offense.

23 (h) If a defendant is alleged to have committed multiple viola-  
24 tions of this section within the state, as set forth in subsection (e),  
25 the prosecutor may file a complaint charging all of the violations  
26 and any related charges under other sections that have not been  
27 previously filed in any county in which a violation is alleged to  
28 have occurred.

29 (i) A law enforcement officer may arrest without warrant any  
30 person he has probable cause to believe has committed the offense  
31 of identity fraud as defined in this section.

32 (j) The punishments for identity fraud provided in this section  
33 shall not be imposed on any person under 21 years of age who  
34 poses as another person or obtains personal identifying informa-  
35 tion about another person for the limited purpose of misrep-  
36 senting his age to purchase or obtain alcoholic beverages, tobacco,

37 or access to a facility that is denied to minors on the basis of age;  
38 provided, that nothing in this subsection shall be construed to pre-  
39 vent any other punishment from being imposed on such person for  
40 this misrepresentation under applicable law.

41 (k) In addition to any other remedies provided under this  
42 section, a person who suffers harm as the result of a violation of  
43 any of the provisions of this section may bring an action in the  
44 superior court in the county, or in the district court in the judicial  
45 district, in which said person resides or, in the case of an person  
46 other than a natural person, has its principal place of business.  
47 Said action shall be limited to damages not otherwise recovered  
48 pursuant to subsection (d).